

I spy, you spy, we all spy

PRIVACY AND FREEDOM. By Alan F. Westin. Atheneum. 487 pp. \$10.

By Telford Taylor

Financed by the Carnegie Corporation of New York, sponsored by the Special Committee on Science & Law of the New York City Bar Association and written by a Columbia University Professor of Public Law, this book is a readable and thoughtful study of a major pub-

Telford Taylor is professor of law at Columbia University.

lic issue. Actual and potential invasions of personal privacy are the inevitable product of scientific developments, especially in the electronics field. After several semi-sensational books on the subject, this solid and dispassionate study is especially welcome.

Alan Westin is a lawyer, but in recent years his principal commitment has been to political and social science, and his book is most successful when he is least the lawyer. It is grounded on an opening section in which the concept of privacy is ex-

amined in historical, psychological and political terms—an analysis ranging from privacy in the animal world to the comparative notions of privacy entertained by Germans, Englishmen and Americans.

Like most other general concepts, privacy has two sides; nothing can be private unless other things are public. Society is engaged in a continual struggle for balance between them. The average person's attitude toward privacy is likewise divided, for although he cherishes various private areas he will

starve psychologically unless he can also communicate, disclose, expose and exhibit. We commonly seek not only to guard our own privacy, but to penetrate the privacy of others, to degrees that range from benevolent curiosity to morbid voyeurism.

"To its profound distress," says Westin in his prologue, "the American public has recently learned of a revolution in the techniques by which public and private authorities can conduct scientific surveillance over the individual." One may wonder whether the distress is as widespread as the author suggests, for he himself goes on to describe the "chilled fascination" with which the mass media have described the new devices. "Have fun!" exhorts the manufacturer of a "confidential pocket camera," while the toy stores gaily market a stuffed parrot with a built-in tape recorder by means of which the buyer can learn "what your company and your friends say about you when you are gone."

Fascinating as are the social and legal questions generated by mini-recorders, spike or parabolic microphones, induction coils and telephoto lenses, they are not the most important prob-

lems which Westin's book touches. In a chapter entitled "Pulling all the facts together," the author discusses computers, data-processing and the resulting impact of the "information revolution" on American society. We leave our individual trails at banks, stores, doctors' offices, hospitals, credit and employment agencies and draft boards as well as sometimes at the police station or FBI headquarters. Suppose all these deposits of information were to be pulled together in one central place? Assuming that the tide sets in that direction, what can be done to protect the individual against the corrupt or oppressive use of such a revealing dossier?

Alas, it is easier to illuminate than to resolve the complexities of these problems. In a gloomy forecast of life in the year 2000, Professor Harry Kalven has suggested that by then "man's technical inventiveness may, in terms of privacy, have turned the whole community into the equivalent of an army barracks," in which man will live under constant surveillance and "burdened by an unerasable record of his past and his limita-

tions." Westin is not quite so pessimistic. To some extent, he observes, a particular type of surveillance may cancel out another. Computerized intelligence and a central credit system largely eliminating the need for cash may put an end to organized crime and diminish the need for physical surveillance.

But the harsh world of the here and now calls for strong and varied countermeasures. In the area of legislative action, Westin sees a need for statutes protecting government employees from unnecessary and unreliable polygraph ("lie-detector") and personality tests. Wire-tapping and bugging should be totally prohibited to private users, and government use should be limited to matters involving national security and kidnapping. The growth of all-inclusive individual data centers should be inhibited by laws preventing the interchange of information between government agencies unless certain standards of necessity, applied at a high executive level and judicially reviewable, are met.

"There ought to be a law" is a common reaction to social horror-stories but, as Westin recognizes, laws are hard to get,

and there are many areas where they would do far more harm than good. What we really need, he indicates, is a massive dose of self-scrutiny and organizational response. Boards of directors and labor unions should detect and eliminate unnecessary and repulsive surveillance practices in private employment. As a good example of organizational reform, he cites Columbia University's recent decision to withhold academic records from government scrutiny, unless with the individual's consent.

Westin's recommendations, if not highly original, are balanced and lucid and should enjoy wide agreement. Yet the historically minded reader will recall that for over 30 years there has been widespread dissatisfaction with the Federal law on wire-tapping, and a host of officially sponsored proposals for change, all of which have died a-borning. Surveillance is in this respect like urban blight and the decay of public transportation; significant remedial measures are bound to hurt someone. No book, however eloquent, can overcome the apathy and selfishness that block necessary action, but Westin's will be useful to those who would like to try. *